

**Board of Chiropractic Examiners**  
**INITIAL STATEMENT OF REASONS**

**Hearing Date:** February 24, 2009 in Sacramento, California.

**Subject Matter of Proposed Regulations:** Standard of Care re Manipulation Under Anesthesia (MUA)

**Sections Affected:**

The proposed regulations would add Section 318.1, which is contained in Article 2 in Division 4 of Title 16 of the California Code of Regulations (CCR).

**Specific Purpose and Factual Basis of each adoption, amendment, or repeal:**

**Section 318.1(a)**

This section specifies that MUA may only be performed in a hospital or ambulatory surgery center that is licensed by the California Department of Public Health, Bureau of Hospital Licensing and Certification or a hospital or ambulatory surgery center that is accredited by the Joint Commission on Accreditation of Healthcare Organizations, the American Association for Accreditation of Ambulatory Surgery, the Accreditation Association for Ambulatory Health Care, Medicare, Det Norske Veritas Healthcare Incorporated, or the Institute for Medical Quality.

The board has taken the position that MUA is within the scope of practice of a chiropractor. However, as currently written, the board's regulations do not contain the standard of care or conditions under which MUA shall be performed. This language is necessary because not all settings are appropriate for the safe performance of MUA. The board determined that facilities licensed or approved by the entities listed in this subdivision have the necessary safety equipment and standards in place to protect consumers undergoing MUA.

**Section 318.1 (b)**

This section specifies that a physician, surgeon, or other health care provider authorized under California law shall administer anesthesia and that a chiropractor has not authority to be involved in the administering and maintaining the anesthesia.

Chiropractors are prohibited from administering or prescribing drugs in any manner; therefore, this language is necessary to clearly identify who is in charge of administering and maintaining anesthesia to a patient. Furthermore, this clarifies that the chiropractor performing the adjustment is in no way directing the anesthesiologist or physician surgeon who is sedating the patient.

## **Section 318 (c)**

This section specifies that MUA shall be performed by two licensed chiropractors trained and competent to safely perform MUA and the role of each chiropractor. It further clarifies that the chiropractor portion of MUA is limited to techniques within the scope of practice of a chiropractor.

The health and safety of the public is the board's primary responsibility. This language is necessary to establish the standard of care to require that MUA be performed by two chiropractors to ensure that the patient receives the utmost care and safety during the procedure. This language also clearly establishes the role of each chiropractor. The primary chiropractor is responsible for performing the chiropractic manipulation, and the second chiropractor ensures that positioning of the patient is accomplished safely, and shall assist the primary chiropractor when necessary.

## **Section 318.1 (d)**

This section specifies that the chiropractors may not be involved in nor interfere with the physician and surgeon or other health care provider in the discharge of the patient following the MUA procedure.

This language is necessary because it should be clear to the licensee that it is not within their authority to discharge a patient following the MUA procedure. This ensures that the patient receives the appropriate care required before a patient is safely discharged following anesthesia.

## **Section 318.1 (e)**

This section specifies the result if a licensed chiropractor fails to follow the standard of care contained in this section when performing MUA.

This language is necessary because it should be clear to the licensee that their failure to follow these regulations may result in discipline of their license.

## **Section 318.1 (f)**

This section specifies that MUA is defined as the manipulation of a patient who is sedated by the administration of anesthesia by a physician and surgeon or other health care provider who is legally authorized to administer anesthesia.

This language is necessary to ensure that licenses are on notice as to what the board considers MUA to be.

## **Underlying Data:**

Department of Consumer Affairs – Legal Opinion – December 13, 2007  
Board Meeting Minutes – September 13, 1990, July 17, 2007, March 1, 2007, April 19, 2007, August 16, 2007, October 25, 2007, November 8, 2007, November 27, 2007, January 10, 2008, March 27, 2008, September 24-25, 2008, November 20, 2008 (draft)

National Academy of MUA Anesthesia Physicians– Report

Raymond A. Ursillo, D.C, F.I.C.C., - Letter

Board's proposed regulations - August 26, 2005

Office of Administrative Law (OAL) – disapproval of the Board's proposed regulations filed August 26, 2005 (file number 05-0826-03-s)

Massachusetts Board of Chiropractors – Policy Guidelines

Texas Board of Chiropractors – Policy Guidelines

Texas Board of Chiropractors – Letter – April 5, 1991

Anesthesia Patient Safety Foundation – Newsletter – spring 2000

American Society of Anesthesiologists – Newsletter – January 2005

MUA – Case Reports

Business Impact:

This regulation will not have a significant adverse economic impact on businesses. This initial determination is based on the following facts or evidence/documents/testimony:

This proposal clarifies the standard of care to a licensed chiropractor to ensure the health and safety of the public, and will not result in additional costs.

Specific Technologies or Equipment:

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulation.

Alternatives considered by the board were to do nothing, which was rejected because it would not provide consumer protection. The board considered certification for chiropractors that performed MUA; however, this was also rejected because the board had no authority to require separate certification (see OAL disapproval, file number 05-0826-03-s).